

117TH CONGRESS
2D SESSION

S. 4465

To establish a Countering Weapons of Mass Destruction Office and an Office of Health Security in the Department of Homeland Security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2022

Mr. PETERS (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish a Countering Weapons of Mass Destruction Office and an Office of Health Security in the Department of Homeland Security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Offices of Countering Weapons of Mass Destruction and
6 Health Security Act of 2022”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title, table of contents.

TITLE I—COUNTERING WEAPONS OF MASS DESTRUCTION
OFFICE

Sec. 101. Countering Weapons of Mass Destruction Office.
Sec. 102. Rule of construction.

TITLE II—OFFICE OF HEALTH SECURITY

Sec. 201. Office of Health Security.
Sec. 202. Medical countermeasures program.
Sec. 203. Confidentiality of medical quality assurance records.
Sec. 204. Portability of licensure.
Sec. 205. Technical and conforming amendments.

1 TITLE I—COUNTERING WEAP-
2 ONS OF MASS DESTRUCTION
3 OFFICE

4 SEC. 101. COUNTERING WEAPONS OF MASS DESTRUCTION
5 OFFICE.

6 (a) HOMELAND SECURITY ACT OF 2002.—Title XIX
7 of the Homeland Security Act of 2002 (6 U.S.C. 590 et
8 seq.) is amended—

9 (1) in section 1901 (6 U.S.C. 591)—

10 (A) in subsection (c), by amending para-
11 graphs (1) and (2) to read as follows:

12 “(1) matters and strategies pertaining to—

13 “(A) weapons of mass destruction; and

14 “(B) chemical, biological, radiological, nu-
15 clear, and other related emerging threats; and

16 “(2) coordinating the efforts of the Department
17 to counter—

18 “(A) weapons of mass destruction; and

1 “(B) chemical, biological, radiological, nu-
2 clear, and other related emerging threats.”; and

3 (B) by striking subsection (e);

4 (2) by amending section 1921 (6 U.S.C. 591g)

5 to read as follows:

6 **“SEC. 1921. MISSION OF THE OFFICE.**

7 “The Office shall be responsible for—

8 “(1) coordinating the efforts of the Department
9 to counter—

10 “(A) weapons of mass destruction; and

11 “(B) chemical, biological, radiological, nu-
12 clear, and other related emerging threats; and

13 “(2) enhancing the ability of Federal, State,
14 local, Tribal, and territorial partners to prevent, de-
15 tect, protect against, and mitigate the impacts of at-
16 tacks using—

17 “(A) weapons of mass destruction against
18 the United States; and

19 “(B) chemical, biological, radiological, nu-
20 clear, and other related emerging threats
21 against the United States.”;

22 (3) in section 1922 (6 U.S.C. 591h)—

23 (A) by striking subsection (b); and

24 (B) by redesignating subsection (c) as sub-
25 section (b);

1 (4) in section 1923 (6 U.S.C. 592)—

2 (A) by redesignating subsections (a) and
3 (b) as subsections (b) and (d), respectively;

4 (B) by inserting before subsection (b) the
5 following:

6 “(a) OFFICE RESPONSIBILITIES.—

7 “(1) IN GENERAL.—For the purposes of coordi-
8 nating the efforts of the Department to counter
9 weapons of mass destruction and chemical, biologi-
10 cal, radiological, and nuclear threats, the Office
11 shall—

12 “(A) provide expertise and guidance to De-
13 partment leadership and components on chem-
14 ical, biological, radiological, and nuclear mat-
15 ters, subject to the research, development, test-
16 ing, and evaluation coordination requirement
17 described in subparagraph (G);

18 “(B) in coordination with the Office for
19 Strategy, Policy, and Plans, lead development
20 of policies and strategies to counter weapons of
21 mass destruction and chemical, biological, radi-
22 ological, and nuclear threats on behalf of the
23 Department;

24 “(C) identify, assess, and prioritize capa-
25 bility gaps relating to the Department’s chem-

1 ical, biological, radiological, and nuclear stra-
2 tegic and mission objectives;

3 “(D) in coordination with the Office of In-
4 telligence and Analysis, support components of
5 the Department, and Federal, State, local,
6 Tribal, and territorial partners, provide intel-
7 ligence and information analysis and reports on
8 weapons of mass destruction and chemical, bio-
9 logical, radiological, nuclear, and other related
10 emerging threats;

11 “(E) in consultation with the Science and
12 Technology Directorate, assess risk to the
13 United States from weapons of mass destruc-
14 tion and chemical, biological, radiological, nu-
15 clear, and other related emerging threats;

16 “(F) lead development and prioritization of
17 Department requirements to counter weapons
18 of mass destruction and chemical, biological, ra-
19 diological, and nuclear threats, subject to the
20 research, development, testing, and evaluation
21 coordination requirement described in subpara-
22 graph (G), which requirements shall be—

23 “(i) developed in coordination with
24 end users; and

1 “(ii) reviewed by the Joint Require-
2 ments Council, as directed by the Sec-
3 retary;

4 “(G) in coordination with the Science and
5 Technology Directorate, direct, fund, and co-
6 ordinate capability development activities to
7 counter weapons of mass destruction and all
8 chemical, biological, radiological, and nuclear
9 research, development, test, and evaluation
10 matters, including research, development, test-
11 ing, and evaluation expertise, threat character-
12 ization, technology maturation, prototyping, and
13 technology transition;

14 “(H) acquire, procure, and deploy counter
15 weapons of mass destruction capabilities, and
16 serve as the lead advisor of the Department on
17 component acquisition, procurement, and de-
18 ployment of counter-weapons of mass destruc-
19 tion capabilities;

20 “(I) in coordination with the Office of
21 Health Security, support components of the De-
22 partment, and Federal, State, local, Tribal, and
23 territorial partners on chemical, biological, radi-
24 ological, and nuclear health matters;

“(J) provide chemical, biological, radiological, and nuclear expertise to Department and Federal partners to support engagements and efforts with international partners subject to the research, development, testing, and evaluation coordination requirement under subparagraph (G); and

“(K) carry out any other duties assigned to the Office by the Secretary.

“(2) DETECTION AND REPORTING.—For purposes of the chemical, biological, radiological, and nuclear detection and reporting responsibilities of the Office, the Office shall—

“(A) in coordination with end users, including State, local, Tribal, and territorial partners, as appropriate—

“(i) carry out a program to test and evaluate technology, in consultation with the Science and Technology Directorate, to detect and report on chemical, biological, radiological, and nuclear weapons or unauthorized material, in coordination with other Federal agencies, as appropriate, and establish performance metrics to evaluate the effectiveness of individual detectors

1 and detection systems in detecting those
2 weapons or material—

3 “(I) under realistic operational
4 and environmental conditions; and

5 “(II) against realistic adversary
6 tactics and countermeasures;

7 “(B) in coordination with end users, con-
8 duct, support, coordinate, and encourage a
9 transformational program of research and de-
10 velopment to generate and improve technologies
11 to detect, protect against, and report on the il-
12 licit entry, transport, assembly, or potential use
13 within the United States of chemical, biological,
14 radiological, and nuclear weapons or unauthor-
15 ized material, and coordinate with the Under
16 Secretary for Science and Technology on re-
17 search and development efforts relevant to the
18 mission of the Office and the Under Secretary
19 for Science and Technology;

20 “(C) before carrying out operational test-
21 ing under subparagraph (A), develop a testing
22 and evaluation plan that articulates the require-
23 ments for the user and describes how these ca-
24 pability needs will be tested in developmental

1 test and evaluation and operational test and
2 evaluation;

3 “(D) develop, acquire, and deploy equip-
4 ment to detect and report on chemical, biologi-
5 cal, radiological, and nuclear weapons or unau-
6 thorized material in support of Federal, State,
7 local, Tribal, and territorial governments;

8 “(E) support and enhance the effective
9 sharing and use of appropriate information on
10 chemical, biological, radiological, and nuclear
11 threats and related emerging issues generated
12 by elements of the intelligence community (as
13 defined in section 3 of the National Security
14 Act of 1947 (50 U.S.C. 3003)), law enforce-
15 ment agencies, other Federal agencies, State,
16 local, Tribal, and territorial governments, and
17 foreign governments, as well as provide appro-
18 priate information to those entities;

19 “(F) consult, as appropriate, with the Fed-
20 eral Emergency Management Agency and other
21 departmental components, on chemical, biologi-
22 cal, radiological, and nuclear threats and efforts
23 to mitigate, prepare, and respond to all threats
24 in support of the State, local, and Tribal com-
25 munities; and

1 “(G) perform other duties as assigned by
2 the Secretary.”;

3 (C) in subsection (b), as so redesignated—

4 (i) in the subsection heading, by strik-
5 ing “MISSION” and inserting “RADIO-
6 LOGICAL AND NUCLEAR RESPONSIBIL-
7 ITIES”;

8 (ii) in paragraph (1)—

9 (I) by inserting “deploy,” after
10 “acquire,”; and

11 (II) by striking “deployment”
12 and inserting “operations”;

13 (iii) by striking paragraphs (6)
14 through (10);

15 (iv) redesignating paragraphs (11)
16 and (12) as paragraphs (6) and (7), re-
17 spectively;

18 (v) in paragraph (6)(B), as so redesign-
19 ated, by striking “national strategic five-
20 year plan referred to in paragraph (10)”
21 and inserting “United States national tech-
22 nical nuclear forensics strategic planning”;

23 (vi) in paragraph (7)(C)(v), as so re-
24 designated—

1 (I) in the matter preceding sub-
2 clause (I), by inserting “except as oth-
3 erwise provided,” before “require”;
4 and

5 (II) in subclause (II)—

6 (aa) in the matter preceding
7 item (aa), by striking “death or
8 disability” and inserting “death,
9 disability, or a finding of good
10 cause as determined by the As-
11 sistant Secretary (including ex-
12 treme hardship, extreme need, or
13 the needs of the Office) and for
14 which the Assistant Secretary
15 may grant a waiver of the repay-
16 ment obligation”; and

17 (bb) in item (bb), by adding
18 “and” at the end;

19 (vii) by striking paragraph (13); and

20 (viii) by redesignating paragraph (14)

21 as paragraph (8); and

22 (D) by inserting after subsection (b), as so
23 redesignated, the following:

24 “(c) CHEMICAL AND BIOLOGICAL RESPONSIBIL-
25 ITIES.—The Office—

1 “(1) shall be responsible for coordinating with
2 other Federal efforts to enhance the ability of Fed-
3 eral, State, local, and Tribal governments to prevent,
4 detect, protect against, and mitigate the impacts of
5 chemical and biological threats against the United
6 States; and

7 “(2) shall—

8 “(A) serve as a primary entity of the Fed-
9 eral Government to further develop, acquire, de-
10 ploy, and support the operations of a national
11 biosurveillance system in support of Federal,
12 State, local, Tribal, and territorial governments,
13 and improve that system over time;

14 “(B) enhance the chemical and biological
15 detection efforts of Federal, State, local, Tribal,
16 and territorial governments and provide guid-
17 ance, tools, and training to help ensure a man-
18 aged, coordinated response; and

19 “(C) collaborate with the Biomedical Ad-
20 vanced Research and Development Authority,
21 the Office of Health Security, the Defense Ad-
22 vanced Research Projects Agency, and the Na-
23 tional Aeronautics and Space Administration,
24 and other relevant Federal stakeholders, and
25 receive input from industry, academia, and the

1 national laboratories on chemical and biological
2 surveillance efforts.”;

3 (5) in section 1924 (6 U.S.C. 593), by striking
4 “section 11011 of the Strom Thurmond National
5 Defense Authorization Act for Fiscal Year 1999 (5
6 U.S.C. 3104 note).” and inserting “section 4092 of
7 title 10, United States Code, except that the author-
8 ity shall be limited to facilitate the recruitment of
9 experts in the chemical, biological, radiological, or
10 nuclear specialties.”;

11 (6) in section 1927(a)(1)(C) (6 U.S.C.
12 596a(a)(1)(C))—

13 (A) in clause (i), by striking “required
14 under section 1036 of the National Defense Au-
15 thorization Act for Fiscal Year 2010”;

16 (B) in clause (ii), by striking “and” at the
17 end;

18 (C) in clause (iii), by striking the period at
19 the end and inserting “; and”; and

20 (D) by adding at the end the following:

21 “(iv) includes any other information
22 regarding national technical nuclear
23 forensics activities carried out under sec-
24 tion 1923.”;

25 (7) in section 1928 (6 U.S.C. 596b)—

1 (A) in subsection (c)(1), by striking “from
2 among high-risk urban areas under section
3 2003” and inserting “based on the capability
4 and capacity of the jurisdiction, as well as the
5 relative threat, vulnerability, and consequences
6 from terrorist attacks and other high-con-
7 sequence events utilizing nuclear or other radio-
8 logical materials”; and

9 (B) by striking subsection (d) and insert-
10 ing the following:

11 “(d) REPORT.—Not later than 2 years after the date
12 of enactment of the Offices of Countering Weapons of
13 Mass Destruction and Health Security Act of 2022, the
14 Secretary shall submit to the appropriate congressional
15 committees an update on the STC program.”; and

16 (8) by adding at the end the following:

17 **“SEC. 1929. ACCOUNTABILITY.**

18 “(a) DEPARTMENTWIDE STRATEGY.—Not later than
19 180 days after the date of enactment of Offices of Coun-
20 tering Weapons of Mass Destruction and Health Security
21 Act of 2022, and every 4 years thereafter, the Secretary,
22 in coordination with the Deputy Secretary, shall create a
23 Departmentwide strategy and implementation plan to
24 counter weapons of mass destruction and chemical, bio-
25 logical, radiological, and nuclear threats, which should—

1 “(1) have clearly identified authorities, specified
2 roles, objectives, benchmarks, accountability, and
3 timelines;

4 “(2) incorporate the perspectives of non-Federal
5 and private sector partners; and

6 “(3) articulate how the Department will con-
7 tribute to relevant national-level strategies and work
8 with other Federal agencies.

9 “(b) CONSIDERATION.—The Secretary shall appro-
10 priately consider chemical, biological, radiological, nuclear,
11 and emerging threats when creating the strategy and im-
12 plementation plan required under subsection (a).

13 “(c) REPORT.—The Office shall submit to the appro-
14 priate congressional committees a report on the updated
15 Departmentwide strategy and implementation plan re-
16 quired under subsection (a).

17 “(d) EMPLOYEE MORALE.—Not later than 180 days
18 after the date of enactment of the Offices of Countering
19 Weapons of Mass Destruction and Health Security Act of
20 2022, the Office shall submit to and brief the appropriate
21 congressional committees on a strategy and plan to con-
22 tinuously improve morale within the Office.

23 “(e) COMPTROLLER GENERAL.—Not later than 1
24 year after the date of enactment of the Offices of Coun-
25 tering Weapons of Mass Destruction and Health Security

1 Act of 2022, the Comptroller General of the United States
2 shall conduct a review of and brief the appropriate con-
3 gressional committees on—

4 “(1) the efforts of the Office to prioritize the
5 programs and activities that carry out the mission of
6 the Office, including research and development;

7 “(2) the consistency and effectiveness of stake-
8 holder coordination across the countering weapons of
9 mass destruction mission, including operational and
10 support components of the Department and State
11 and local entities; and

12 “(3) the efforts of the Office to manage and co-
13 ordinate the lifecycle of research and development
14 within the Office and with other components of the
15 Department, including the Science and Technology
16 Directorate.

17 “(f) NATIONAL ACADEMIES OF SCIENCES, ENGI-
18 NEERING, AND MEDICINE.—

19 “(1) STUDY.—The Secretary shall enter into an
20 agreement with the National Academies of Sciences,
21 Engineering, and Medicine to conduct a consensus
22 study and report to the Secretary and the appro-
23 priate congressional committees on—

1 “(A) the role of the Department in pre-
2 paring, detecting, and responding to biological
3 and health security threats to the homeland;

4 “(B) recommendations to improve depart-
5 mental biosurveillance efforts against biological
6 threats, including any relevant biological detec-
7 tion methods and technologies; and

8 “(C) the feasibility of different techno-
9 logical advances for biodetection compared to
10 the cost, risk reduction, and timeliness of those
11 advances.

12 “(2) BRIEFING.—Not later than 1 year after
13 the date on which the Secretary receives the report
14 required under paragraph (1), the Secretary shall
15 brief the appropriate congressional committees on—

16 “(A) the implementation of the rec-
17 ommendations included in the report; and

18 “(B) the status of biological detection at
19 the Department, and, if applicable, timelines for
20 the transition from Biowatch to updated tech-
21 nology.

22 “(g) ADVISORY COUNCIL.—

23 “(1) ESTABLISHMENT.—Not later than 180
24 days after the date of enactment of the Offices of
25 Countering Weapons of Mass Destruction and

1 Health Security Act of 2022, the Secretary shall es-
2 tablish an advisory body to ensure effective and on-
3 going coordination of the efforts of the Department
4 to counter weapons of mass destruction, to be known
5 as the Advisory Council for Countering Weapons of
6 Mass Destruction (in this subsection referred to as
7 the ‘Advisory Council’).

8 “(2) MEMBERSHIP.—The members of the Advi-
9 sory Council shall—

10 “(A) be appointed by the Assistant Sec-
11 retary; and

12 “(B) to the extent practicable, represent a
13 geographic (including urban and rural) and
14 substantive cross section of officials, from
15 State, local, and Tribal governments, academia,
16 the private sector, national laboratories, and
17 nongovernmental organizations, including, as
18 appropriate—

19 “(i) members selected from the emer-
20 gency management field and emergency re-
21 sponse providers;

22 “(ii) State, local, and Tribal govern-
23 ment officials;

24 “(iii) experts in the public and private
25 sectors with expertise in chemical, biologi-

1 cal, radiological, and nuclear agents and
2 weapons;

3 “(iv) representatives from the national
4 laboratories; and

5 “(v) such other individuals as the As-
6 sistant Secretary determines to be appro-
7 priate.

8 “(3) RESPONSIBILITIES.— The Advisory Coun-
9 cil shall—

10 “(A) advise the Assistant Secretary on all
11 aspects of countering weapons of mass destruc-
12 tion;

13 “(B) incorporate State, local, and Tribal
14 government, national laboratories, and private
15 sector input in the development of the strategy
16 and implementation plan of the Department for
17 countering weapons of mass destruction; and

18 “(C) establish performance criteria for a
19 national biological detection system and review
20 the testing protocol for biological detection pro-
21 totypes.

22 “(4) CONSULTATION.—To ensure input from
23 and coordination with State, local, and Tribal gov-
24 ernments, the Assistant Secretary shall regularly
25 consult and work with the Advisory Council on the

administration of Federal assistance provided by the Department, including with respect to the development of requirements for countering weapons of mass destruction programs, as appropriate.

“(5) VOLUNTARY SERVICE.—The members of the Advisory Council shall serve on the Advisory Council on a voluntary basis.

“(6) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Council.”.

(b) COUNTERING WEAPONS OF MASS DESTRUCTION ACT OF 2018.—Section 2 of the Countering Weapons of Mass Destruction Act of 2018 (Public Law 115–387; 132 Stat. 5162) is amended—

(1) in subsection (b)(2) (6 U.S.C. 591 note), by striking “1927” and inserting “1926”; and

(2) in subsection (g) (6 U.S.C. 591 note)—

(A) in the matter preceding paragraph (1), by striking “one year after the date of the enactment of this Act, and annually thereafter,” and inserting “June 30 of each year,”; and

(B) in paragraph (2), by striking “Security, including research and development activities” and inserting “Security”.

1 (c) SECURITY AND ACCOUNTABILITY FOR EVERY
 2 PORT ACT OF 2006.—The Security and Accountability for
 3 Every Port Act of 2006 (6 U.S.C. 901 et seq.) is amend-
 4 ed—

5 (1) in section 1(b) (Public Law 109–347; 120
 6 Stat 1884), by striking the item relating to section
 7 502; and

8 (2) by striking section 502 (6 U.S.C. 592a).

9 **SEC. 102. RULE OF CONSTRUCTION.**

10 Nothing in this title or the amendments made by this
 11 title shall be construed to affect or diminish the authori-
 12 ties or responsibilities of the Under Secretary for Science
 13 and Technology.

14 **TITLE II—OFFICE OF HEALTH**
 15 **SECURITY**

16 **SEC. 201. OFFICE OF HEALTH SECURITY.**

17 (a) ESTABLISHMENT.—The Homeland Security Act
 18 of 2002 (6 U.S.C. 101 et seq.) is amended—

19 (1) in section 103 (6 U.S.C. 113)—

20 (A) in subsection (a)(2)—

21 (i) by striking “the Assistant Sec-
 22 retary for Health Affairs,”; and

23 (ii) by striking “Affairs, or” and in-
 24 serting “Affairs or”; and

1 (B) in subsection (d), by adding at the end
2 the following:

3 “(6) A Chief Medical Officer.”;

4 (2) by adding at the end the following:

5 **“TITLE XXIII—OFFICE OF**
6 **HEALTH SECURITY”;**

7 (3) by redesignating section 1931 (6 U.S.C.
8 597) as section 2301 and transferring such section
9 to appear after the heading for title XXIII, as added
10 by paragraph (2); and

11 (4) in section 2301, as so redesignated—

12 (A) in the section heading, by striking
13 **“CHIEF MEDICAL OFFICER”** and inserting
14 **“OFFICE OF HEALTH SECURITY”;**

15 (B) by striking subsections (a) and (b) and
16 inserting the following:

17 “(a) IN GENERAL.—There is established in the De-
18 partment an Office of Health Security.

19 “(b) HEAD OF OFFICE OF HEALTH SECURITY.—The
20 Office of Health Security shall be headed by a chief med-
21 ical officer, who shall—

22 “(1) be the Assistant Secretary for Health Se-
23 curity and the Chief Medical Officer of the Depart-
24 ment;

1 “(2) be a licensed physician possessing a dem-
2 onstrated ability in and knowledge of medicine and
3 public health;

4 “(3) be appointed by the President; and

5 “(4) report directly to the Secretary.”;

6 (C) in subsection (c)—

7 (i) in the matter preceding paragraph
8 (1), by striking “medical issues related to
9 natural disasters, acts of terrorism, and
10 other man-made disasters” and inserting
11 “oversight of all medical, public health,
12 and workforce safety matters of the De-
13 partment”;

14 (ii) in paragraph (1), by striking “,
15 the Administrator of the Federal Emer-
16 gency Management Agency, the Assistant
17 Secretary, and other Department officials”
18 and inserting “and all other Department
19 officials”;

20 (iii) in paragraph (4), by striking
21 “and” at the end;

22 (iv) by redesignating paragraph (5) as
23 paragraph (12); and

24 (v) by inserting after paragraph (4)
25 the following:

1 “(5) overseeing all medical and public health
2 activities of the Department, including the delivery,
3 advisement, and oversight of direct patient care and
4 the organization, management, and staffing of com-
5 ponent operations that deliver direct patient care;

6 “(6) advising the head of each component of
7 the Department that delivers direct patient care re-
8 garding the recruitment and appointment of a com-
9 ponent chief medical officer and deputy chief med-
10 ical officer or the employee who functions in the ca-
11 pacity of chief medical officer and deputy chief med-
12 ical officer;

13 “(7) advising the Secretary and the head of
14 each component of the Department that delivers di-
15 rect patient care regarding knowledge and skill
16 standards for medical personnel and the assessment
17 of that knowledge and skill;

18 “(8) advising the Secretary and the head of
19 each component of the Department that delivers pa-
20 tient care regarding the collection, storage, and over-
21 sight of medical records;

22 “(9) in consultation with the Chief Information
23 Officer of the Department—

1 “(A) identifying methods and technologies
2 for managing, updating, and overseeing patient
3 records; and

4 “(B) setting standards for technology used
5 by the components of the Department regarding
6 the collection, storage, and oversight of medical
7 records;

8 “(10) advising the Secretary and the head of
9 each component of the Department that delivers di-
10 rect patient care regarding contracts for the delivery
11 of direct patient care, other medical services, and
12 medical supplies;

13 “(11) coordinating with the Countering Weap-
14 ons of Mass Destruction Office and other compo-
15 nents of the Department as directed by the Sec-
16 retary to enhance the ability of Federal, State, local,
17 Tribal, and territorial governments to prevent, de-
18 tect, protect against, and mitigate the health effects
19 of chemical, biological, radiological, and nuclear
20 issues; and”;

21 (D) by adding at the end the following:

22 “(d) ASSISTANCE AND AGREEMENTS.—The Sec-
23 retary, acting through the Chief Medical Officer, in sup-
24 port of the medical and public health activities of the De-
25 partment, may—

1 “(1) provide technical assistance, training, and
2 information and distribute funds through grants and
3 cooperative agreements to State, local, Tribal, and
4 territorial governments and nongovernmental organi-
5 zations;

6 “(2) enter into other transactions;

7 “(3) enter into agreements with other Federal
8 agencies; and

9 “(4) accept services from personnel of compo-
10 nents of the Department and other Federal agencies
11 on a reimbursable or nonreimbursable basis.

12 “(e) OFFICE OF HEALTH SECURITY PRIVACY OFFI-
13 CER.—There shall be a Privacy Officer in the Office of
14 Health Security with primary responsibility for privacy
15 policy and compliance within the Office, who shall—

16 “(1) report directly to the Chief Medical Offi-
17 cer; and

18 “(2) ensure privacy protections are integrated
19 into all Office of Health Security activities, subject
20 to the review and approval of the Privacy Officer of
21 the Department to the extent consistent with the au-
22 thority of the Privacy Officer of the Department
23 under section 222.”;

1 (5) by redesignating section 710 (6 U.S.C. 350)
 2 as section 2302 and transferring such section to ap-
 3 pear after section 2301, as so redesignated;

4 (6) in section 2302, as so redesignated—

5 (A) in subsection (a), by striking “Under
 6 Secretary for Management” each place that
 7 term appears and inserting “Chief Medical Offi-
 8 cer”; and

9 (B) in subsection (b)—

10 (i) in the matter preceding paragraph
 11 (1), by striking “Under Secretary for Man-
 12 agement, in coordination with the Chief
 13 Medical Officer,” and inserting “Chief
 14 Medical Officer”; and

15 (ii) in paragraph (3), by striking “as
 16 deemed appropriate by the Under Sec-
 17 retary,”;

18 (7) by redesignating section 528 (6 U.S.C.
 19 321q) as section 2303 and transferring such section
 20 to appear after section 2302, as so redesignated; and

21 (8) in section 2303(a), as so redesignated, by
 22 striking “Assistant Secretary for the Countering
 23 Weapons of Mass Destruction Office” and inserting
 24 “Chief Medical Officer”.

25 (b) TRANSITION AND TRANSFERS.—

1 (1) TRANSITION.—The individual appointed
2 pursuant to section 1931 of the Homeland Security
3 Act of 2002 (6 U.S.C. 597) of the Department of
4 Homeland Security, as in effect on the day before
5 the date of enactment of this Act, and serving as the
6 Chief Medical Officer of the Department of Home-
7 land Security on the day before the date of enact-
8 ment of this Act, shall continue to serve as the Chief
9 Medical Officer of the Department on and after the
10 date of enactment of this Act without the need for
11 reappointment.

12 (2) RULE OF CONSTRUCTION.—The rule of con-
13 struction described in section 2(hh) of the Presi-
14 dential Appointment Efficiency and Streamlining
15 Act of 2011 (5 U.S.C. 3132 note) shall not apply to
16 the Chief Medical Officer of the Department of
17 Homeland Security, including the incumbent who
18 holds the position on the day before the date of en-
19 actment of this Act, and such officer shall be paid
20 pursuant to section 3132(a)(2) or 5315 of title 5,
21 United States Code.

22 (3) TRANSFER.—The Secretary of Homeland
23 Security shall transfer to the Chief Medical Officer
24 of the Department of Homeland Security—

1 (A) all functions, personnel, budget author-
 2 ity, and assets of the Under Secretary for Man-
 3 agement relating to workforce health and med-
 4 ical support, as in existence on the day before
 5 the date of enactment of this Act;

6 (B) all functions, personnel, budget au-
 7 thority, and assets of the Assistant Secretary
 8 for the Countering Weapons of Mass Destruc-
 9 tion Office relating to the Chief Medical Officer,
 10 including the Medical Operations Directorate of
 11 the Countering Weapons of Mass Destruction
 12 Office, as in existence on the day before the
 13 date of enactment of this Act; and

14 (C) all functions, personnel, budget author-
 15 ity, and assets of the Assistant Secretary for
 16 the Countering Weapons of Mass Destruction
 17 Office associated with the efforts pertaining to
 18 the program coordination activities relating to
 19 defending the food, agriculture, and veterinary
 20 defenses of the Office, as in existence on the
 21 day before the date of enactment of this Act.

22 **SEC. 202. MEDICAL COUNTERMEASURES PROGRAM.**

23 The Homeland Security Act of 2002 (6 U.S.C. 101
 24 et seq.) is amended by redesignating section 1932 (6
 25 U.S.C. 597a) as section 2304 and transferring such sec-

1 tion to appear after section 2303, as so redesignated by
 2 section 201 of this Act.

3 **SEC. 203. CONFIDENTIALITY OF MEDICAL QUALITY ASSUR-**
 4 **ANCE RECORDS.**

5 Title XXIII of the Homeland Security Act of 2002,
 6 as added by this Act, is amended by adding at the end
 7 the following:

8 **“SEC. 2305. CONFIDENTIALITY OF MEDICAL QUALITY AS-**
 9 **SURANCE RECORDS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) HEALTH CARE PROVIDER.—The term
 12 ‘health care provider’ means an individual who—

13 “(A) is—

14 “(i) an employee of the Department;

15 “(ii) a detailee to the Department
 16 from another Federal agency;

17 “(iii) a personal services contractor of
 18 the Department; or

19 “(iv) hired under a contract for serv-
 20 ices;

21 “(B) performs health care services as part
 22 of duties of the individual in that capacity; and

23 “(C) has a current, valid, and unrestricted
 24 license or certification—

1 “(i) that is issued by a State, the Dis-
 2 trict of Columbia, or a commonwealth, ter-
 3 ritory, or possession of the United States;
 4 and

5 “(ii) that is for the practice of medi-
 6 cine, osteopathic medicine, dentistry, nurs-
 7 ing, emergency medical services, or another
 8 health profession.

9 “(2) MEDICAL QUALITY ASSURANCE PRO-
 10 GRAM.—The term ‘medical quality assurance pro-
 11 gram’ means any activity carried out by the Depart-
 12 ment to assess the quality of medical care, including
 13 activities conducted by individuals, committees, or
 14 other review bodies responsible for quality assurance,
 15 credentials, infection control, incident reporting, the
 16 delivery, advisement, and oversight of direct patient
 17 care and assessment (including treatment proce-
 18 dures, blood, drugs, and therapeutics), medical
 19 records, health resources management review, and
 20 identification and prevention of medical, mental
 21 health, or dental incidents and risks.

22 “(3) MEDICAL QUALITY ASSURANCE RECORD
 23 OF THE DEPARTMENT.—The term ‘medical quality
 24 assurance record of the Department’ means all in-
 25 formation, including the proceedings, records (in-

1 including patient records that the Department creates
 2 and maintains as part of a system of records), min-
 3 utes, and reports that—

4 “(A) emanate from quality assurance pro-
 5 gram activities described in paragraph (2); and

6 “(B) are produced or compiled by the De-
 7 partment as part of a medical quality assurance
 8 program.

9 “(b) CONFIDENTIALITY OF RECORDS.—A medical
 10 quality assurance record of the Department that is created
 11 as part of a medical quality assurance program—

12 “(1) is confidential and privileged; and

13 “(2) except as provided in subsection (d), may
 14 not be disclosed to any person or entity.

15 “(c) PROHIBITION ON DISCLOSURE AND TESTI-
 16 MONY.—Except as otherwise provided in this section—

17 “(1) no part of any medical quality assurance
 18 record of the Department may be subject to dis-
 19 covery or admitted into evidence in any judicial or
 20 administrative proceeding; and

21 “(2) an individual who reviews or creates a
 22 medical quality assurance record of the Department
 23 or who participates in any proceeding that reviews
 24 or creates a medical quality assurance record of the
 25 Department may not be permitted or required to

1 testify in any judicial or administrative proceeding
2 with respect to the record or with respect to any
3 finding, recommendation, evaluation, opinion, or ac-
4 tion taken by that individual in connection with the
5 record.

6 “(d) AUTHORIZED DISCLOSURE AND TESTIMONY.—

7 “(1) IN GENERAL.—Subject to paragraph (2), a
8 medical quality assurance record of the Department
9 may be disclosed, and a person described in sub-
10 section (c)(2) may give testimony in connection with
11 the record, only as follows:

12 “(A) To a Federal agency or private orga-
13 nization, if the medical quality assurance record
14 of the Department or testimony is needed by
15 the Federal agency or private organization to—

16 “(i) perform licensing or accreditation
17 functions related to Department health
18 care facilities, a facility affiliated with the
19 Department, or any other location author-
20 ized by the Secretary for the performance
21 of health care services; or

22 “(ii) perform monitoring, required by
23 law, of Department health care facilities, a
24 facility affiliated with the Department, or
25 any other location authorized by the Sec-

1 retary for the performance of health care
2 services.

3 “(B) To an administrative or judicial pro-
4 ceeding concerning an adverse action related to
5 the credentialing of or health care provided by
6 a present or former health care provider by the
7 Department.

8 “(C) To a governmental board or agency
9 or to a professional health care society or orga-
10 nization, if the medical quality assurance record
11 of the Department or testimony is needed by
12 the board, agency, society, or organization to
13 perform licensing, credentialing, or the moni-
14 toring of professional standards with respect to
15 any health care provider who is or was a health
16 care provider for the Department.

17 “(D) To a hospital, medical center, or
18 other institution that provides health care serv-
19 ices, if the medical quality assurance record of
20 the Department or testimony is needed by the
21 institution to assess the professional qualifica-
22 tions of any health care provider who is or was
23 a health care provider for the Department and
24 who has applied for or been granted authority

1 or employment to provide health care services
2 in or on behalf of the institution.

3 “(E) To an employee, a detailee, or a con-
4 tractor of the Department who has a need for
5 the medical quality assurance record of the De-
6 partment or testimony to perform official duties
7 or duties within the scope of their contract.

8 “(F) To a criminal or civil law enforce-
9 ment agency or instrumentality charged under
10 applicable law with the protection of the public
11 health or safety, if a qualified representative of
12 the agency or instrumentality makes a written
13 request that the medical quality assurance
14 record of the Department or testimony be pro-
15 vided for a purpose authorized by law.

16 “(G) In an administrative or judicial pro-
17 ceeding commenced by a criminal or civil law
18 enforcement agency or instrumentality de-
19 scribed in subparagraph (F), but only with re-
20 spect to the subject of the proceeding.

21 “(2) PERSONALLY IDENTIFIABLE INFORMA-
22 TION.—

23 “(A) IN GENERAL.—With the exception of
24 the subject of a quality assurance action, per-
25 sonally identifiable information of any person

1 receiving health care services from the Depart-
 2 ment or of any other person associated with the
 3 Department for purposes of a medical quality
 4 assurance program that is disclosed in a med-
 5 ical quality assurance record of the Department
 6 shall be deleted from that record before any dis-
 7 closure of the record is made outside the De-
 8 partment.

9 “(B) APPLICATION.—The requirement
 10 under subparagraph (A) shall not apply to the
 11 release of information that is permissible under
 12 section 552a of title 5, United States Code
 13 (commonly known as the ‘Privacy Act of
 14 1974’).

15 “(e) DISCLOSURE FOR CERTAIN PURPOSES.—Noth-
 16 ing in this section shall be construed—

17 “(1) to authorize or require the withholding
 18 from any person or entity aggregate statistical infor-
 19 mation regarding the results of medical quality as-
 20 surance programs; or

21 “(2) to authorize the withholding of any med-
 22 ical quality assurance record of the Department
 23 from a committee of either House of Congress, any
 24 joint committee of Congress, or the Comptroller

1 General of the United States if the record pertains
2 to any matter within their respective jurisdictions.

3 “(f) PROHIBITION ON DISCLOSURE OF INFORMA-
4 TION, RECORD, OR TESTIMONY.—A person or entity hav-
5 ing possession of or access to a medical quality assurance
6 record of the Department or testimony described in this
7 section may not disclose the contents of the record or testi-
8 mony in any manner or for any purpose except as provided
9 in this section.

10 “(g) EXEMPTION FROM FREEDOM OF INFORMATION
11 ACT.—A medical quality assurance record of the Depart-
12 ment shall be exempt from disclosure under section
13 552(b)(3) of title 5, United States Code (commonly known
14 as the ‘Freedom of Information Act’).

15 “(h) LIMITATION ON CIVIL LIABILITY.—A person
16 who participates in the review or creation of, or provides
17 information to a person or body that reviews or creates,
18 a medical quality assurance record of the Department
19 shall not be civilly liable for that participation or for pro-
20 viding that information if the participation or provision
21 of information was provided in good faith based on pre-
22 vailing professional standards at the time the medical
23 quality assurance program activity took place.

24 “(i) APPLICATION TO INFORMATION IN CERTAIN
25 OTHER RECORDS.—Nothing in this section shall be con-

1 strued as limiting access to the information in a record
 2 created and maintained outside a medical quality assur-
 3 ance program, including the medical record of a patient,
 4 on the grounds that the information was presented during
 5 meetings of a review body that are part of a medical qual-
 6 ity assurance program.

7 “(j) PENALTY.—Any person who willfully discloses a
 8 medical quality assurance record of the Department other
 9 than as provided in this section, knowing that the record
 10 is a medical quality assurance record of the Department
 11 shall be fined not more than \$3,000 in the case of a first
 12 offense and not more than \$20,000 in the case of a subse-
 13 quent offense.

14 “(k) RELATIONSHIP TO COAST GUARD.—The re-
 15 quirements of this section shall not apply to any medical
 16 quality assurance record of the Department that is created
 17 by or for the Coast Guard as part of a medical quality
 18 assurance program.”.

19 **SEC. 204. PORTABILITY OF LICENSURE.**

20 (a) TRANSFER.—Section 16005 of the CARES Act
 21 (6 U.S.C. 320 note) is redesignated as section 2306 of
 22 the Homeland Security Act of 2002 and transferred so
 23 as to appear after section 2305, as added by section 203
 24 of this Act.

1 (b) REPEAL.—Section 2306 of the Homeland Secu-
 2 rity Act of 2002, as so redesignated by subsection (a), is
 3 amended by striking subsection (c).

4 **SEC. 205. TECHNICAL AND CONFORMING AMENDMENTS.**

5 The Homeland Security Act of 2002 (6 U.S.C. 101
 6 et seq.) is amended—

7 (1) in the table of contents in section 1(b)
 8 (Public Law 107–296; 116 Stat. 2135)—

9 (A) by striking the items relating to sec-
 10 tions 528 and 529 and inserting the following:

“Sec. 528. Transfer of equipment during a public health emergency.”;

11 (B) by striking the items relating to sec-
 12 tions 710, 711, 712, and 713 and inserting the
 13 following:

“Sec. 710. Employee engagement.

“Sec. 711. Annual employee award program.

“Sec. 712. Acquisition professional career program.”;

14 (C) by inserting after the item relating to
 15 section 1928 the following:

“Sec. 1929. Accountability.”;

16 (D) by striking the items relating to sub-
 17 title C of title XIX and sections 1931 and
 18 1932; and

19 (E) by adding at the end the following:

“TITLE XXIII—OFFICE OF HEALTH SECURITY

“Sec. 2301. Office of Health Security.

“Sec. 2302. Workforce health and medical support.

“Sec. 2303. Coordination of Department of Homeland Security efforts related
 to food, agriculture, and veterinary defense against terrorism.

“Sec. 2304. Medical countermeasures program.

“Sec. 2305. Confidentiality of medical quality assurance records.
 “Sec. 2306. Portability of licensure.”;

1 (2) by redesignating section 529 (6 U.S.C.
 2 321r) as section 528;

3 (3) in section 704(e)(4) (6 U.S.C. 344(e)(4)),
 4 by striking “section 711(a)” and inserting “section
 5 710(a))”;

6 (4) by redesignating sections 711, 712, and 713
 7 as sections 710, 711, and 712, respectively;

8 (5) in section 1923(b)(3) (6 U.S.C.
 9 592(b)(3))—

10 (A) in the paragraph heading, by striking
 11 “HAWAIIAN NATIVE-SERVING” and inserting
 12 “NATIVE HAWAIIAN-SERVING”; and

13 (B) by striking “Hawaiian native-serving”
 14 and inserting “Native Hawaiian-serving”;

15 (6) by striking the subtitle heading for subtitle
 16 C of title XIX;

17 (7) by striking section 1932 (6 U.S.C. 597a);
 18 and

19 (8) in section 2306, as so redesignated by sec-
 20 tion 204 of this Act—

21 (A) by inserting “**PORTABILITY OF LI-**
 22 **CENSURE.**” after “2306.”; and

23 (B) in subsection (a), by striking “(a) Not-
 24 withstanding” and inserting the following:

1 “(a) IN GENERAL.—Notwithstanding”.

○